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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2016-0012]

Notice of Decision to Authorize the Importation of Fresh Pomegranates From Peru Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation of fresh pomegranates from Peru into the continental United States. Based on the findings of a pest risk analysis, which we made available for the public to review and comment through a previous notice, we have concluded that the application of designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests via the importation of fresh pomegranates from Peru.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Mr. David B. Lamb, Senior Regulatory Policy Specialist, PPQ, APHIS, USDA, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2103; email: David.B.Lamb@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Under the regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-75, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from

certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56-4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section.

In accordance with that process, we published a notice¹ in the Federal Register on March 14, 2016 (81 FR 13310, Docket No. APHIS-2016-0012), in which we announced the availability, for review and comment, of a pest risk assessment (PRA) that identifies pests of quarantine significance that could follow the pathway of importation of pomegranates from Peru into the continental United States. Based on the PRA, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the pomegranates to mitigate the pest risk. The risk management document recommended the following phytosanitary measures be applied to the importation of pomegranates from Peru into the continental United States:

- The pomegranates must be imported as commercial consignments only;
- Each consignment of pomegranates must be accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Peru;
- Each consignment of pomegranates must be treated with irradiation in accordance with 7 CFR part 305; and
- Each consignment of pomegranates is subject to inspection upon arrival at the port of entry to the United States.

¹ To view the notice, PRA, RMD, and comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0012>.

We solicited comments on the PRA and RMD for 60 days, ending on May 13, 2016. We received eight comments by that date, from an organization of State plant regulatory agencies, importers, the Peruvian Government, a U.S. port of entry, and private citizens.

Seven of the commenters supported the importation of fresh pomegranates from Peru into the continental United States.

One commenter interpreted our notice as a proposal to authorize the importation of pomegranates from Peru subject to any of the four phytosanitary measures recommended by the RMD. The commenter suggested the measures need to be jointly applied in order to mitigate the plant pest and noxious weed risk associated with the importation of pomegranates from Peru into the continental United States.

We agree with the commenter. All four phytosanitary measures identified above must be applied to the importation of pomegranates from Peru into the continental United States in order to address plant pest and noxious weed risk.

The same commenter stated that irradiation should have to occur in Peru or in States where the plant pests of quarantine significance that we identified as potentially following the pathway of importation of pomegranates from Peru could not become established.

We appreciate the commenter's concern regarding irradiation of the pomegranates in areas of the United States where quarantine plant pests that could potentially follow the pathway of importation of the pomegranates from Peru could become established. Indeed, our regulations governing the approval of irradiation facilities in the United States, which are found in 7 CFR 305.9, require that, if an irradiation facility is located in a State where quarantine pests that are targeted by irradiation could become established, then it must take additional safeguards, specified within that section, in order to address this pest risk. However, because § 305.9 also

allows irradiation treatment for imported commodities to take place within the United States, and does not preclude it from taking place in States where establishment of quarantine pests is possible, we cannot grant the commenter's request.

Therefore, in accordance with § 319.56-4(c)(2)(ii), we are announcing our decision to authorize the importation of pomegranates from Peru into the continental United States subject to the following phytosanitary measures:

- The pomegranates must be imported as commercial consignments only;
- Each consignment of pomegranates must be accompanied by a phytosanitary certificate issued by the NPPO of Peru;
- Each consignment of pomegranates must be treated with irradiation in accordance with 7 CFR part 305; and
- Each consignment of pomegranates is subject to inspection upon arrival at the port of entry to the United States.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <http://www.aphis.usda.gov/favir/>). In addition to these specific measures, pomegranates from Peru will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables.

Authority: 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 4th day of August 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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